

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Tracey Bernard Gilyard and)	C/A NO. 3:12-1336-CMC
Tiffany Adams,)	
)	
Plaintiffs,)	OPINION and ORDER
v.)	
)	
Randy Benson, individually, E. Shaw,)	
individually, and Richland County Sheriff's)	
Department,)	
)	
Defendants.)	
_____)	

This matter is before the court on Plaintiffs' motion for reconsideration. ECF No. 88. Defendants have responded in opposition and the matter is ripe for consideration.¹

The Fourth Circuit Court of Appeals has interpreted Rule 59(e) of the Federal Rules of Civil Procedure to allow the court to alter or amend an earlier judgment: ““(1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice.”” *Becker v. Westinghouse Savannah River Co.*, 305 F.3d 284, 290 (4th Cir. 2002) (quoting *Pac. Ins. Co. v. Am. Nat’l Fire Ins. Co.*, 148 F.3d 396, 403 (4th Cir. 1998)). “Whatever may be the purpose of Rule 59(e) it should not be supposed that it is intended to give an unhappy litigant one additional chance to sway the judge.” *Atkins v. Marathon LeTourneau Co.*, 130 F.R.D. 625 (S.D. Miss. 1990).

¹On December 2, 2013, Plaintiffs filed an untimely reply to Defendants' response. ECF No. 92. See D.S.C. Local Civil Rule 7.07 (replies, if filed, are due seven (7) days after service of response).

Plaintiffs contend that “any objective, reasonable officer would have known the dangers associated with using a taser on a subject on an asphalt surface.” Mot. at 1-2 (ECF No. 88). Plaintiffs go on to reassert their argument that another type of force should have been used on Plaintiff Gilyard instead of the taser gun.

This argument is, in essence, an attempt by an unhappy litigant to sway the court. For the same reasons outlined in the Opinion and Order granting summary judgment to Defendants, *see* ECF No. 86 (filed Oct. 2, 2013), Plaintiffs motion for reconsideration is **denied**.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
SENIOR UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
December 3, 2013